

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

TONY EUGENE SAFFOLD,

Petitioner,

No. 2:98-cv-1040-JAM-JFM (HC)

vs.

THOMAS L. CAREY,

Respondent.

ORDER

Petitioner, a state prisoner proceeding through counsel, has timely filed a notice of appeal of this court's January 8, 2009 denial of his application for a writ of habeas corpus together with a request for a certificate of appealability pursuant to 28 U.S.C. § 2253(c).

A certificate of appealability may issue under 28 U.S.C. § 2253 "only if the applicant has made a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2). The court must either issue a certificate of appealability indicating which issues satisfy the required showing or must state the reasons why such a certificate should not issue. Fed. R. App. P. 22(b).

For the reasons set forth in the magistrate judge's April 22, 2008 findings and recommendations, petitioner has not made a substantial showing of the denial of a constitutional right. Accordingly, IT IS HEREBY ORDERED that:

and

DATED: 2/13/2009

UNITED STATES DISTRICT JUDGE